

REMARKS

Applicant appreciates the consideration of the response to the previous Office Action. The applicant has thoroughly studied the Office Action of August 19, 2009 and the Advisory Action of December 7, 2009, and has submitted this amendment in response to that Office Action. Reconsideration of this application, as amended, is earnestly requested.

Claims 1, 2, 46, 51, 85, 91, 112, and 119 are amended as shown above. Claims 84 and 118 previously have been cancelled without prejudice, and claims 3, 5-45, 53-61, 63, 65-83, 87-90, 94-102, 104, 106-111, and 113-117 have been withdrawn from examination due to a restriction requirement. Claims 1,2,4,46-52, 62, 64, 85-86,91-93, 103, 105, 112, and 119 remain pending in the application with claims 1, 112, and 119 being the independent claims.

Claims 1, 112, and 119 stand rejected under 35 U.S.C. §102(b) as being anticipated by Adinolfi (US 5929355), Lauts (US D475555), and Battle (US 5063821). Claims 1-2, 4, 46-47, 112, and 119 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams (US 5,691,490) in view of Aitken (US 4,658,690), claims 48-52, 64, 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and further in view of Tumura (US 5,585,588), and claims 84-86, 91-93, 103, and 105 as being unpatentable over Williams in view of Aitken and Tumura and further in view of Norton (US 5,994,633). These rejections are respectfully traversed.

102 Rejections

The applicant has amended independent claims 1, 112, 119 to more clearly define the invention. Claim 1 now recites these elements; a mounting frame, a plurality of first musical modules, a plurality of first mounting openings in the mounting frame, at least one subframe, a plurality of second mounting openings in the at least one subframe, a plurality of second musical modules, and at least one instrument interface. The first openings can secure either a first

musical module or a subframe. The subframe in turn has a plurality of second mounting openings, and each subframe can secure a second musical module. No new matter is added with these amendments, and the amendments are best visualized with reference to FIG. 16.

The Examiner has maintained the anticipation rejections and has cited Adinolfi, Lauts, and Battle in rejecting independent claims 1, 112, and 119. Adinolfi relates to an integrated support and wired rack system is provided for acoustic-electronic and or electronic percussion instruments in which tubular cross and upright support members form a free standing rack with each tubular section carrying bundled wires inside the support and input and output jacks and connectors mounted on the rack at strategic locations adjacent the drum placement mounts and having cross to upright jumper cables and connectors to allow for the height and width adjustments of the integrated rack system. Lauts shows an ornamental design for a dual keyboard stand. Battle relates to a percussion instrument employing a horizontal surface having transducers on its under side and spaced above the floor. Mounted at an elevation and position within easy reach of the percussionist are a number of tubular drums which the percussionist may strike with a drumstick.

In maintaining the rejections, in the Advisory Action, the Examiner makes two points. The first point is that size, i.e. "small-scale", is not a patentable difference. The second point made by the Examiner is that each of Lauts, Battle, and Adinolfi has a frame structure comprising a main frame and supports that connect musical instruments to the frame.

The amendments to the independent claims emphasize the difference between the cited art and the present invention. Claim 1 now claims a plurality of first openings into which a number of first musical modules or a number of subframes may be secured. None of the cited art claims opening into which musical modules or instruments may be secured. Rather, each of the prior art is directed to mounting musical instruments having different configurations on a

single stand. None teaches or reasonably suggests a plurality of first mounting openings into which first musical modules may be interchangeably installed.

Further, none of the cited references teaches or reasonably suggests a subframe that has second mounting openings, wherein the subframe is mountable in mounting frame. Instead, The Examiner points Luats's and Battle's smaller supports supported by the main support. None of these smaller supports has a plurality of second mounting opening into which second musical modules may be interchangeably installed.

None of Adinolfi, Lauts, and Battle teaches "[a plurality of] first musical module[s] interchangeably secured in one of a plurality of first mounting openings of the mounting frame" and "at least one subframe module interchangeably secure[ing] at least one of a plurality of second musical modules in at least one of a plurality of second mounting openings of the subframe."

Independent claims 112 and 119 recite similar limitations, and for similar reasons are patentable as well.

As set forth in MPEP 2131, to anticipate a claim, the reference must teach every element of the claim. Since, as discussed above, every element of independent claims 1, 112, and 119 is not taught by Adinolfi, Lauts, and Battle, applicant submits that these claims are not anticipated by Adinolfi, Lauts, and Battle and are therefore patentable. Additionally, claims 2, 4, 46-52, 62, 64, 85-86, 91-93, 103, and 105 are patentable at least by virtue of dependence upon a patentable independent claim.

103 Rejections

Independent claims 1, 112, and 119 stand rejected as being unpatentable over Williams (US 5,691,490) in view of Aitken (US 4,658,690). None of Williams and Aitken teaches or reasonably suggests a mounting frame having a plurality of first mounting openings for interchangeably securing a plurality of first musical modules, at least one subframe, and in the at least one subframe having a

plurality of second mounting openings for interchangeably securing a plurality of second musical modules, and at least one instrument interface.

Williams teaches a stringed musical instrument such as an electric or acoustic guitar and a bass guitar in combination with a piano-type keyboard wherein the keyboard is adjustably attached using a bracket for adjusting the keyboard relative to the stringed instrument. (Abstract). Williams does not teach or suggest that the stringed instrument has a subframe having openings in which one or more musical modules of any size are located, but only that the single musical module (the keyboard) is adjustable. Also, there is no alternate location to install the keyboard nor is there any other module that may be installed in place of the keyboard. The keyboard is not interchangeable with any other module, and adjustability is not the same as interchangeability,

Aitken teaches a guitar-like musical instrument for use with a synthesizer in which the neck angle is adjustable with respect to the body. The Examiner cites Aitken for teaching the use of adjustable music modules ("Aitken discloses the use of music modules (22, 40, 50, 70) having a keyboard (70) and a readily positionable neck board (22; col. 23, lines 21 - 28). It would have been obvious to one of ordinary skill in the art to combine the teachings of Williams and Aitken to obtain an aggregated instrument wherein each of the modules is readily positionable with respect to a mounting frame.") (OA p.4). Just because Aitken's guitar neck and trigger strings (40) are rotatable with respect to the pitch strings (50) and keys (70) does not mean that the trigger strings are interchangeable with the keys or the pitch strings. Being positionable does not teach "interchangeably secured."

The secondary references of Tumura and Norton also fail to cure the deficiency of not teaching interchangeably secured first and second musical modules. Tumura relates to a stringed instrument having a device that drives the strings to sustain the vibration of the string and an electromagnetic driver for the device. (Col. 1: 13-17). The Examiner has not indicated where or how Tumura

teaches "interchangeably secured" musical modules, and the applicant believes that Tumura fails to teach "interchangeably secured" musical modules.

Norton relates to a stringed musical instrument, such as a guitar, mandolin, or a violin having an elongated frame to which modular components such as necks, electronic pick-ups, electronic control boxes, bridges, tail pieces, decorative components, or body parts can be adjustably placed and clamped.

The Examiner relies upon Norton for teaching first and second musical modules ("Tumura disclose a small-scale module (interpreted here as a "module within a module"). OA, p.7. Norton discloses a control module (132) having plural and separate controls (134) within the control module (132). The Examiner is defining these controls (134) as second musical modules within a first musical module (132).

The Examiner mischaracterizes the scope of independent claim 1. The applicant claims, in part, a mounting frame to which individual first musical modules and subframes can be attached. A subframe further contains one or more second musical modules. The Examiner equates Norton's control module 132 with a first musical module, and then further equates the individual controls 134 on the music module 132 as second musical modules. The applicant respectfully disagrees with the Examiner's characterization for the following reason.

An individual control 134 is not a musical module. While Norton does not define an individual control in the specification, FIG. 11 shows control module 132 having switches and pushbuttons or knobs. A component such as a switch or a pushbutton is not a "second musical modules generat[ing] [an] electrical signal in response to user operation" but only an element of the control module 132. Norton does not indicate that these switches and pushbuttons are interchangeable with each other as required by claim 1. Normally such switches and pushbuttons are permanently mounted on a control module, and nothing in Norton indicates otherwise. Applicant contends that a switch or a pushbutton is

not the equivalent of an “interchangeably secured” second musical module, and that an “interchangeably secured” second musical module is not taught by Norton.

For the above reasons, Williams, Aitken, and Tumura do not teach “interchangeably secured” musical modules.

Independent claims recite limitations not taught by Williams, Aitkin, Tunura, and Norton, either individually or in combination.

As set forth in MPEP 2143, to show a *prima facie* case for obviousness, all the prior art references, either individually or combined, must teach all the claim limitations. None of Williams, Aitkin, Tunura, and Norton teaches a “the at least one subframe module interchangeably secure[ing] at least one of a plurality of second musical modules in at least one of a plurality of second mounting openings of the subframe,” Applicant submits that a *prima facie* case for obviousness has not been shown and that claims 1, 112 and 119 are patentable over the cited prior art. Additionally, claims 2, 4, 46-52, 62, 64, 85-86, 91-93, 103, and 105 are patentable as well by virtue of dependence upon a patentable independent claim.

CONCLUSION

In view of the above amendments and remarks, applicant respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of the claims. Applicant believes the claims are in condition for allowance and respectfully solicit favorable action.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If any points remain at issue that the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly invited to contact the undersigned by telephone at (909) 621-2059 or by email at cwschmoyer@yahoo.com.

Respectfully submitted,

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